

Wolff Law Offices, PLLC
Reply Brief to Examiner's Answer



Appl. Ser. No. 10/657,189
Patent Application

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Re: Application of: Joseph E. Legare

Filing Date: September 9, 2003

Serial Number: 10/657,189

Group Art Unit: 3748

For: CONTROL METHODS
FOR IMPROVED CATALYTIC
CONVERTER EFFICIENCY AND
DIAGNOSIS

Examiner: Diem Tran

APPELLANT'S REPLY BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

This is in response to the Examiner's Answer mail dated June 9, 2009. Appellant respectfully request that the Appeal be withdrawn, that claim 50 be cancelled without prejudice or disclaimer, and a Notice of Allowance be issued with claims 1-49 and 51 allowed.

Appellant notes that the Examiner in Section (3) of the Examiner's Answer has now noted that in view of the arguments presented in the various versions of the Appeal Brief previously filed in this case, that "claims 1-49 and 51 are now indicated as allowed." Appellant thanks Examiner Tran for her reconsideration and allowance of all of claims 1-49 and 51. The undersigned verified with Examiner Tran via a telephonic Examiner Interview on August 7, 2009 that she was allowing all but claim 50, and then asked for her recommendation on how best to respond so as to get claims 1-49 and 51 to allowance and cancel claim 50. The Examiner called the undersigned today, August 10, 2009, and indicated that the Appellant should file a Reply Brief to indicate our desire to cancel claim 50. As such, Appellant request that the present Appeal be withdrawn in favor of the allowance and immediate issuance of claims 1-49 and 51.

Appellant would like to cancel the only remaining claim in controversy, claim 50, without prejudice or disclaimer. For expediency, rather than argue the merits of allowing claim 50 and risk further delay in the issuance of allowed claims 1-49 and 51, Appellant has decided to proceed to cancel claim 50 and let allowed claims 1-49 and 51 go to allowance. Therefore, the Appellant herein cancels claim 50 and submits herewith for the convenience of the Examiner a Response and Amendment that places the claims in the proper form for allowance. Appellant respectfully requests that the Examiner either cancel claim 50 by Examiner's Amendment or enter the Response and Amendment included herewith, and forward a Notice of Allowance to the undersigned as soon as possible so that the present patent application may be soon issued.

Appellant notes that the present patent application has a filing date of September 9, 2009 and any further delay would be unreasonable.

**REQUEST A NOTICE OF ALLOWANCE FOR CLAIMS 1-49 AND 51 AND TO
CANCEL CLAIM 50**

In view of the foregoing, Appellant (Appellant) respectfully submits that the claimed invention in claims 1-49 and 51 are not anticipated nor made obvious in view of the various cited and applied references within the meaning of § 102 and § 103. Therefore, the Examiner's reversal (or the Board's reversal) of the Examiner's position to the contrary with respect to claims 1-49 and 51 is respectfully requested. Appellant further respectfully requests that the application be remanded to the Examiner to withdraw the rejection of claims 1-49 and 51 under § 102 and § 103, cancel claim 51, and pass the case immediately on to allowance.

Please notify the undersigned as soon as possible if there is any additional fee(s) that may be necessary for the continued pendency of this application. Appellant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee, except for the Issue Fee, for such extension is to be charged to the charge card identified in the credit card form submitted earlier in this case or to notify the undersigned promptly that the fee is due.

Respectfully submitted,



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Date: August 10, 2009